



ENVIRONMENTAL PROTECTION AGENCY

[FRL-9656-7]

Reissuance of NPDES General Permit for Concentrated Animal Feeding Operations (CAFOs) Located in Idaho.

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice of availability of final NPDES general permit.

SUMMARY: The Director, Office of Water and Watersheds, EPA Region 10, is publishing notice of availability of the final National Pollutant Discharge Elimination System (NPDES) general permit (IDG010000), authorizing discharges from CAFOs in Idaho including CAFOs in Indian Country. Unless excluded from coverage in the general permit, owners/operators of animal feeding operations that are defined as CAFOs, or designated as CAFOs by the permitting authority, are eligible for coverage under the general permit.

DATES: The NPDES general permit shall become effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Facilities must submit a new updated Notice of Intent (NOI) to discharge within 90 days of the effective date of this permit. Facilities that have administratively extended coverage under the previous general permit will continue to have coverage under the previous permit for 90 days after the effective date of this general permit or until obtaining coverage under the new general permit for those discharges. The CAFO's authorization is only for discharges that occur after permit coverage is granted.

ADDRESSES: The general permit, Fact Sheet and Response to Comments may be found

on the Region 10 website at:

<http://www.epa.gov/region10/water/npdes/generalpermits.html>

Copies of the general permit and Response to Comments are available upon request.

Written requests for copies of the documents may be submitted to EPA, Region 10, 1200 Sixth Avenue, Suite 900, OWW-130, Seattle, WA 98101. Electronic requests may be sent to: WASHINGTON.AUDREY@EPA.GOV or PEAK.NICHOLAS@EPA.GOV. Requests by telephone may be made to Audrey Washington at (206) 553-0523

FOR FURTHER INFORMATION CONTACT: Nicholas Peak at (208) 378-5765

SUPPLEMENTARY INFORMATION:

Additional Background

On May 27, 2002, the previous NPDES general permit expired and was administratively extended. Pursuant to section 402 of the Clean Water Act, 33 U.S.C. 1342, the EPA proposed to reissue the general permit and solicited comments on the draft general permit in the Federal Register on November 16, 2009. The comment period ended on January 19, 2010. Public meetings were held in Pocatello, Jerome, and Nampa, Idaho on December 8th, 9th and 10th, 2009, respectively. Changes have been made from the draft permit to the final permit in response to comments received from: Canyon County Alliance for Responsible Growth, Idaho Concerned Area Residents for the Environment, Idaho Cattle Association, Idaho Conservation League, Idaho Dairyman's Association, Jean Public, Jerome County Planning and Zoning, J.R. Simplot Company, Natural Resources Conservation Service - Boise Idaho State of Idaho - Department of Agriculture, and Whatcom Conservation District.

State Certification

Pursuant to Section 401 of the Clean Water Act, 33 U.S.C. 1341, on February 1, 2012, the Idaho Department of Environmental Quality (IDEQ) certified that the conditions of the general permit comply with the Idaho State Water Quality Standards, including the State's antidegradation policy.

Endangered Species Act (ESA)

EPA completed a Biological Evaluation for the general permit and engaged in informal Section 7 consultation with the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS). EPA received concurrence in October 2011 from both agencies on EPA's determination that the permit is not likely to adversely affect threatened or endangered species and the associated critical habitat. The permit provides coverage only if the CAFO's discharge will not adversely affect species that are federally listed as endangered or threatened under ESA and will not result in the adverse modification or destruction of habitat that is designated as critical habitat under ESA.

Executive Order 12866:

EPA has determined that this general permit is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to Office of Management and Budget (OMB) review.

Paperwork Reduction Act

The information collection requirements of this general permit were previously approved by the OMB under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., and assigned OMB control numbers 2040-0086 (NPDES permit application) and 2040-0004 (discharge monitoring reports).

The Regulatory Flexibility Act (RFA)

5 U.S.C. 601 et seq., requires that EPA prepare a regulatory flexibility analysis for rules subject to the requirements of 5 U.S.C. 553(b) that have a significant impact on a substantial number of small entities. However, general NPDES permits are not “rules” subject to the requirements of 5 U.S.C. 553(b), and are therefore not subject to the RFA.

Unfunded Mandates Reform Act

Section 201 of the Unfunded Mandates Reform Act (UMRA), Pub.L. 104–4, generally requires federal agencies to assess the effects of their “regulatory actions” (defined to be the same as “rules” subject to the RFA) on tribal, state, and local governments and the private sector. However, the general permit issued today is not a “rule” subject to the RFA, and is therefore not subject to the UMRA.

Appeal of Permit

Any interested person may appeal the general permit in the Federal Court of Appeals in accordance with section 509(b)(1) of the Clean Water Act, 33 U.S.C. 1369(b)(1). This appeal must be filed within 120 days of the permit effective date. Persons affected by the permit may not challenge the conditions of the permit in further EPA proceedings (see 40 CFR 124.19). Instead, they may either challenge the permit in court or apply for an individual NPDES permit.

March 29, 2012

Date

Michael A. Bussell, Director

Office of Water and Watersheds, Region 10

U.S. Environmental Protection Agency

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